

(h) Annually, facilities shall be arrayed using the methods described in clauses (e) and (g), and:

i. Each facility with a cost per service unit at or above its group's first cost per service unit limit, but less than the second cost per service unit limit for that group, shall be limited to 98 percent of its total operating cost per diems, then add the forecasted inflation index in Section 7.022, item A, subitem (4).

ii. Each facility with a cost per service unit at or above the second cost per service unit limit will be limited to 97 percent of its total operating cost per diems, then add the forecasted inflation index in Section 7.022, item A, subitem (4).

iii. The total operating cost per diems is equal to the allowable cost per service unit subject to the limit, multiplied by the facility's service unit score in clause (b).

iv. Effective June 25, 1996, facilities that have undergone a Class A to Class B conversion since January 1, 1990, are exempt from the limitations in this clause for six years after completion of the conversion process. Although the conversion may have taken place before June 25, 1996, federal financial participation (FFP) for this provision will not be available until June 25, 1996.

(3) Effective for rate years beginning on or after October 1, 1996, the operating cost per service unit, for purposes of the cost per service unit limit in clauses (g) and (h) of subitem (2), is calculated after excluding the costs directly identified to the provision of outreach crisis services and a four-bed crisis unit established in Section 17.040. The efficiency incentive paid to an ICF/MR as determined in Section 7.022, item E, is not increases as a result of this calculation.

D. The commissioner shall rebase these overall limits when directed to do so by state law, using the methods described in this section, but no more frequently than once every three years.

E. For the rate year beginning October 1, 1995, the commissioner shall exempt an ICF/MR from reductions to the payment rates under this section if the facility:

(1) has had a settle-up payment rate established in the reporting year preceding the rate year for a one-time rate adjustment under Section 7.030;

(2) is a newly established facility or an A to B licensure conversion project under Section 12.000;

(3) has a payment rate subject to the conditions of closure under Section 17.010;

(4) has a payment rate established under a voluntary or involuntary receivership under Sections 14.000 or 15.000, respectively; or

(5) has a proportion of temporary care resident days to total resident days which exceeds 80 percent. For this purpose, "temporary care" means care provided by a facility to a client for less than 30 consecutive resident days.

F. For the rate years beginning October 1, 1996, October 1, 1997, and October 1, 1998, the commissioner shall exempt an ICF/MR from reductions to the payment rates under item C, subitem (2), clause (f) and under Section 7.016 if the facility meets any criteria in item E.

G. For the rate year beginning October 1, 1999, the commissioner shall exempt an ICF/MR from reductions to the payment rates under item C, subitem (2), clause (f) if the facility meets the criteria in item E, subitem (1) or (2) or (3) or (4) or is a facility created by the relocation of more than 25 percent of the capacity of a related facility during the reporting year.

H. For the rate years beginning October 1, 1996, October 1, 1997, October 1, 1998, and, effective November 25, 1997 for the rate years beginning October 1, 1999 and October 1, 2000, the commissioner shall exempt a facility from the reductions both in this section and in Section 7.016 if:

(1) the facility is involved in a bed relocation project where more than 25 percent of the facility's beds are transferred to another facility;

(2) the relocated beds are six or fewer;

(3) there is no change in the total number of ICF/MR beds for the parent organization of the facility; and

(4) the relocation is not part of an interim or settle-up rate.

Section 7.016 **Calculation of the facility high cost and spend-up limits for the rate years beginning October 1, 1996, October 1, 1997, October 1, 1998, and October 1, 1999.** For these rate years, the commissioner shall, for purposes of the spend-up limit established in Section 7.015, item C, subitem (f):

A. Array facilities within each grouping in Section 7.015, item C, subitem (d) by each facility's cost per resident day. A facility's cost per resident day shall be determined by dividing its allowable historical general operating cost for the reporting year by the facility's resident days for that reporting year.

B. Facilities with a cost per resident day at or above the median are limited to the lessor of:

(1) the current reporting year's cost per resident day; or

(2) the prior reporting year's cost per resident day plus the inflation factor as established in Section 7.022, item A, subitem (5), increased by three percentage points.

C. In no case will the amount of the reduction in item B exceed:

(1) three percent for a facility with a licensed capacity greater than 16 beds;

(2) two percent for a facility with a licensed capacity of nine to 16 beds; and

(3) one percent for a facility with a licensed capacity of eight or fewer beds.

D. The commissioner must not apply the limits in Section 7.015, item C, subitem (2), clause (h) for rate years beginning October 1, 1996.

E. Notwithstanding items A through D, the commissioner must also compute facility payment rates based on the limitations in Section 7.015 and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1997. Effective November 25, 1997, for purposes of computing the spend-up limits for the rate year beginning October 1, 1997, the facility's prior cost report year's allowable general operating cost base shall be either the facility's allowed general operating costs used to set the payment rate paid for the rate year beginning October 1, 1996, or the general operating cost base determined pursuant to this item for October 1, 1996, whichever results in the highest payment rate effective October 1, 1997.

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F. Effective November 18, 1997, for a provider group that includes seven ICFs/MR with a total of 54 licensed beds and was affected significantly by the severe winter and spring of 1997, the operating cost payment rate for each of its six facilities located in Polk and Norman counties for the rate year beginning October 1, 1997, shall be the operating cost payment rate in effect for each facility on September 30, 1997.

G. Notwithstanding items A through D, the commissioner must utilize facility payment rates based on the laws in effect for October 1, 1998, payment rates and use the resulting allowable operating cost per diems as the basis for the spend-up limits for the rate year beginning October 1, 1999.

Section 7.018. Determination of a facility's weighted service units. In order to establish payment rates for rate years beginning on or after October 1, 1995, client assessment and client classification information will be reported.

A. The commissioner of human services shall assign weights to each client's classification according to the following table:

<u>Classification</u>	<u>Classification Weight</u>
1S	1.00
1I	1.04
2S	1.36
2I	1.52
3S	1.58
3I	1.68
4S	1.87
4I	2.02
5S	2.09
5I	2.26
6S	2.26
6I	2.52
7S	2.10
7I	2.37
8S	2.26
8I	2.52

B. To establish the service characteristics of clients and assign a classification level, the Minnesota Department of Health case mix review program shall assess all clients annually. The facility's qualified mental retardation professional (QMRP) with primary responsibility for the

client's individual program plan, in conjunction with the interdisciplinary team, shall assess each client who is newly admitted to a facility.

C. Minnesota law and rules describe the schedule of assessment, procedures for reassessment, and reclassification of clients. Client assessments completed by the case mix review program and the facility QMRP must be recorded on assessment forms developed by the commissioner of health.

D. The assessment provides scoring in the domains of personal interaction, independence, and integration, challenging behaviors and preventive practice, activities of daily living, and special treatments. Scores must be based on information from the assessment form. A client's score from each assessment domain shall be used to determine that client's classification.

E. The commissioner of health shall determine and assign classifications for each client using information from the completed assessment form submitted by the case mix review program team or the facility QMRP.

Section 7.019 Changes to ICF/MR rates beginning October 1, 1999.

For the rate year beginning October 1, 1999, the Department will make an adjustment to the total operating payment rate for a facility that submits a plan, approved by the Department, in accordance with item B. Total operating costs will be separated into compensation-related costs and all other costs. Compensation-related costs include means allowable program operating cost category employee training expenses and allowable salaries, payroll taxes, and fringe benefits for all employees except the administrator and central office staff. ~~Compensation-related costs do not include management fees.~~

A. Facilities that have rates governed by closure agreements, receivership agreements, or interim rates are not eligible for these adjustments.

B. For the rate year beginning October 1, 1999, the payment rate is increased by 4.6 percent of compensation-related costs and 3.2 percent of all other operating costs. A facility's most recent ~~Medicare~~ cost report submitted for desk audit will be used to calculate the adjustment.

C. To receive the total operating payment rate adjustment, a facility must apply to the Department. The application must contain a plan by which the facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing

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representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan.

(1) The Department will review the plan to ensure that the payment rate adjustment is used as provided in item B.

(2) To be eligible, a facility must submit its plan for the payment rate adjustment by December 31, 1999. If a facility's plan for the payment rate adjustment is effective for its employees after October 1 of the year in which the funds are available, the payment rate adjustment shall be effective on the date specified in the plan.

D. ~~The payment rate adjustment for each facility will be determined under subitems (1) or (2).~~

~~(1) For a facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the~~ The Department will determine the payment rate adjustment using the categories listed above multiplied by the rate increases in item B, divided by the facility's actual resident days; ~~or~~

~~(2) For a facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment will be computed using the facility's total operating costs, separated into the categories listed above in proportion to the weighted average of all facilities determined under item D, subitem (1), multiplied by the rate increases in item B, divided by the facility's actual resident days.~~

Section 7.020 Changes to ICF/MR rates beginning October 1, 2000.

For the rate year beginning October 1, 2000, the Department will make an adjustment to the total operating payment rate for a facility that submits a plan, approved by the Department, in accordance with item B. Total operating costs will ⁽¹⁾be separated into compensation-related costs and all other costs. ⁽²⁾Compensation-related costs include means allowable program operating cost category employee training expenses and allowable salaries, payroll taxes, and fringe benefits for all employees except the administrator and central office staff. ~~Compensation-related costs do not include management fees.~~

A Facilities that have rates

B. For the rate year beginning October 1, 2000, the payment rate is increased by:

(1) ~~3.6~~ 6.6 percent of compensation-related costs, 45 percent of which must be used to increase the per-hour pay rate of all employees except administrative and central office employees by an equal dollar amount and to pay associated costs for FICA, the Medicare tax, workers' compensation premiums, and federal and state unemployment insurance provided that this portion of the compensation-related increase must be used only for wage increases implemented on or after October 1, 2000, and must not be used for wage increases implemented before that date;

(2) and 2.0 percent of all other operating costs.

A facility's most recent ~~Medicare~~ cost report submitted for desk audit will be used to calculate the adjustment.

C. To receive the total operating payment rate adjustment, a facility must apply to the Department. The application must contain a plan by which the facility will distribute the compensation-related portion of the payment rate adjustment to employees of the nursing facility. For a facility in which the employees are represented by an exclusive bargaining representative, an agreement negotiated and agreed to by the employer and the exclusive bargaining representative constitutes the plan only if the agreement is finalized after May 16, 2000.

(1) The Department will review the plan to ensure that the payment rate adjustment is used as provided in item B.

(2) To be eligible, a facility must submit its plan for the payment rate adjustment by December 31, 2000. If a facility's plan for the payment rate adjustment is effective for its employees after October 1 of the year that the funds are available, the payment rate adjustment shall be effective the same date as its plan.

D. ~~The payment rate adjustment for each facility will be determined under subitems (1) or (2):~~

~~(1) For a facility that reports salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the~~ The Department will determine the payment rate adjustment using the categories listed above multiplied by the rate increases in item B, divided by the facility's actual resident days; ~~or~~

~~(2) For a facility that does not report salaries for registered nurses, licensed practical nurses, aides, orderlies, and attendants separately, the payment rate adjustment will be computed using the facility's total operating costs, separated into the categories listed above in proportion to the weighted average of all facilities determined under item D, subitem (1), multiplied by the rate increases in item B, divided by the facility's actual resident days.~~

Section 7.022 Establishment of total operating cost payment rate. The total operating cost payment rate shall be established according to items A to F.

A. The inflation factors in effect for various rate years and periods are found in the following subitems:

(1) For the rate year beginning October 1, 1986, and for the first three months of the rate year beginning October 1, 1987, the allowable historical operating cost per diems determined according to Section 7.010, items B to D, shall be adjusted by the annualized percentage change in the all urban consumer price index (CPI-U) for Minneapolis-Saint Paul as published by the Bureau of Labor Statistics, United States Department of Labor, between the two most recent Decembers before the beginning of the rate year. The year 1967 is the standard reference base period. For the rate year beginning October 1, 1986, the allowable certified audit cost per diem in Section 7.010, item E, shall not be adjusted by the CPI-U.

(2) For the rate period beginning January 1, 1988, the allowable historical operating cost per diems determined according to subpart 1, items B to D, shall be adjusted by the annualized percent moving average of the index specified in Section 7.010, item A, subitem (1), clause (f). Also, for the period January 19, 1988, to September 30, 1988, the program allowable historical operating cost per diem determined according to Section 7.010, item B, shall be adjusted by adding 2.46 to the annualized percent moving average of the index specified in Section 7.010, item A, subitem (1), clause (f).

(3) For rate years beginning on or after October 1, 1988, the allowable historical operating cost per diems shall be adjusted by a composite forecasted index established by the Department to take into account the economic trends and conditions between the midpoint of the facility's reporting year and the midpoint of the following rate year. The index shall incorporate Data Resources, Inc. forecast of increases in the average hourly earnings of nursing and personal care workers indexed in Standard Industrial Code 805 in *Employment and Earnings* published by the Bureau of Labor Statistics, United States Department of Labor. This portion of the index shall be weighted annually by the proportion of total allowable salaries and wages to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities.

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For adjustments to the other operating costs in the program, maintenance, and administrative operating cost categories, the statewide index must incorporate the Data Resources, Inc. forecast for increases in the national CPI-U. This proportion of the index must be weighted annually by the proportion of total allowable other operating costs to the total allowable operating costs in the program, maintenance, and administrative operating cost categories for all facilities. The Commissioner shall use the indices as forecasted by Data Resources, Inc., in the fourth quarter of the reporting year.

(4) For rate years beginning on or after October 1, 1990, the Department shall index a facility's allowable operating costs in the program, maintenance, and administrative operating cost categories by using Data Resources, Inc. forecast for change in the Consumer Price Index-All Items (U.S. city average) (CPI-U). The Department shall use the indices as forecasted by Data Resources, Inc. in the first quarter of the calendar year in which the rate year begins, and shall be based on the 21-month period from the midpoint of the facility's reporting year to the midpoint of the rate year following the reporting year.

(5) For rate years beginning on or after October 1, 1995, the CPI-U forecasted index for the overall operating cost limits described in Section 7.015 shall be determined in the first quarter of the calendar year in which the rate year begins, and shall be based on the 12-month period between the midpoints of the two reporting years preceding the rate year.

B. The program operating cost payment rate shall be the adjusted program operating cost per diem computed in item A except as provided in Section 7.030.

C. The maintenance operating cost payment rate shall be the adjusted maintenance operating cost per diem computed in item A.

D. The administrative operating cost payment rate shall be the adjusted administrative operating cost per diem computed in item A.

E. If the reporting year's total operating cost excluding special operating costs, is less than the sum of the limits computed in Section 7.010, item A, subitems (2), (3), and (4), the facility shall receive the difference divided by the greater of resident days or 85 percent of capacity days.

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(3) delicensed two beds during that year, then the commissioner shall determine the payment rate for the period May 1, 1995 through September 30, 1996, as provided in clauses (a) to (c).

(a) a temporary payment rate shall be paid which is equal to the rate in effect as of April 30, 1995.

(b) The payment rate in clause (a) shall be subject to a retroactive downward adjustment based on the provisions in clause (c).

(c) The temporary payment rate shall be limited to the lesser of the payment in clause a or the payment rate calculated based on the facility's cost report for the reporting year January 1, 1995 through December 31, 1995, and the provisions of this Section 7.015 and the reimbursement rules in effect on June 30, 1995, except that the provisions referred to in subclauses i and ii shall not apply:

i. the inflation factor in Section 7.022 and

ii. Section 2.160.

Section 7.026 Settle-up of costs. The facility's program operating costs are subject to a retroactive settle-up for the 1988 and 1989 reporting years, determined by the following method:

A. If a facility's program operating costs, including one-time adjustment program operating costs for the facility's 1988 or 1989 reporting year, are less than 98 percent of the facility's total program operating cost payments for facilities with 20 or fewer licensed beds, or less than 99 percent of the facility's total program operating cost payments for facilities with more than 20 licensed beds, then the facility must repay the difference to the State according to the desk audit adjustment procedures. For the purpose of determining the retroactive settle-up amounts, the facility's program operating cost payment rates, including one-time program operating cost adjustment rates for those reporting years, by the prorated resident days that correspond to those program operating cost payment rates paid during those reporting years.

B. If a facility's program operating costs, including one-time adjustment program operating cost for the facility's 1989 reporting year are between 102 and 105 percent of the amount computed by multiplying the facility's program operating cost payment rates, by the prorated resident days that correspond to those program operating cost payment rates paid during that reporting year, the State must repay the difference to the facility according to the